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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In the Application of:

GREGORY CHARLES WEED

CASE NO.: IM0877 US CIP

SERIAL NO.: 09/775,988

GROUP ART UNIT: 1752

FILED: FEBRUARY 2, 2001

EXAMINER: CYNTHIA HAMILTON

FOR: NEAR IR SENSITIVE
PHOTOIMAGEABLE/PHOTOPOLYMERIZA
BLE COMPOSITIONS, MEDIA, AND
ASSOCIATED PROCESSES

DATE: 21 March 2002

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

By Office Action dated February 21, 2002, the above-referenced application has been made subject to a requirement to restrict. The Examiner is requested to telephone the undersigned to discuss any claim amendment should the Examiner require that the claims be amended to recite the elected species inasmuch as such amendment needed to satisfy this restriction requirement must be clarified by the Examiner.

Applicant elects for examination Species D - polymerizable wet developed relief forming compositions, with traverse.

Applicant traverses the restriction requirement on the grounds that the examiner has improperly read the species disclosed in the specification into the claims which are generic. There is no statutory or regulatory basis for the examiner to require restriction to species which are not set forth in the claims.

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As stated in 35 U.S.C. 121:

If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions.

As stated in 37 C.F.R. 1.142:

"If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted..."

Since the generic invention is claimed in the instant application and no claims are directed to the species cited by the examiner, the conclusion that two or more independent and distinct inventions are being claimed in the instant application is incorrect. Accordingly, the restriction requirement should be withdrawn.

The statement in the Office action that "[t]his application contains claims directed to the following patentably distinct species of the claimed invention" [emphasis added] is confusing. There are no claims which recite the species listed in the Office action. If the examiner maintains the restriction requirement, applicant requests clarification of the requirement by furnishing reasons fully supported by the patent law why it is proper to read the species cited in the specification into the claims.

Respectfully submitted,



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